



Wisconsin Elections Commission

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January 28, 2022

Jane Juza
705 Mt. Mary Dr.
Green Bay, WI 54311

Celestine Jeffreys
City of Green Bay Municipal Clerk
100 N Jefferson St.
Green Bay, WI 54301

Sent via email: janejuzarealtor@gmail.com, Celestine.Jeffreys@greenbaywi.gov

Re: In the Matter of: Jane Juza v. Celestine Jeffreys (Case No.: EL 22-01)

Dear Ms. Juza and Ms. Jeffreys:

This letter is in response to the verified complaint submitted by Jane Juza (Complainant) to the Wisconsin Elections Commission (Commission), which was filed in reply to actions taken by election officials during the Spring of 2022 nomination paper review period. The complaint alleges that the City of Green Bay Municipal Clerk, Celestine Jeffreys (Respondent), violated the Complainant's rights by denying her ballot access.

Complaints "...shall set forth such facts as are within the knowledge of the complainant to show probable cause to believe that a violation of law or abuse of discretion has occurred or will occur." Wis. Stat. § 5.06(1). Probable cause is defined in Wis. Admin. Code § EL 20.02(4) to mean "the facts and reasonable inferences that together are sufficient to justify a reasonable, prudent person, acting with caution, to believe that the matter asserted is probably true."

The Commission has reviewed the complaint, the response of the City of Green Bay Municipal Clerk, and all supporting documentation. The Commission provides the following analysis and decision. In short, the Commission has determined that the Complainant did not show probable cause to believe that a violation of law or abuse of discretion occurred with relation to Wis. Stats. §§ 8.07, 8.10, 8.21, and 8.30 or Wis. Admin. Code § EL 2.05.

Complaint Allegations and Response

The Complainant is seeking ballot access for the City of Green Bay Common Council in the upcoming Spring of 2022 election. Her nomination papers have a stamped submission date of Jan. 4, 2022. The Complainant's Declaration of Candidacy form and her Nomination Papers state that she is seeking ballot access for District 1 of the City of Green Bay Common Council. On Jan. 4 at 6:38 pm, the Respondent notified the Complainant that the Complainant did not gain ballot access for District 1 because the Complainant resides in District 5. On Jan. 4 at 8:59 pm, the Complainant asked the Respondent if the Complainant could file an amendment to change

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her Declaration of Candidacy and her Nomination Papers to state that she is seeking ballot access for District 5 instead of District 1. On Jan. 5 at 8:30 am, the Respondent notified the Complainant that the deadline for filing was Jan. 4, and that the Complainant could not file an amendment.

The Complainant then filed a complaint with the Wisconsin Elections Commission, received on Jan. 12, alleging that the Respondent erred by denying ballot access to the City of Green Bay Common Council, District 5. The Complainant alleges that she filed her paperwork timely, lives in District 5, and submitted 30 valid signatures to achieve ballot access to District 5. The Complainant stated that “[i]t was an honest mistake to put down District 1,” and that she believes she should gain ballot access for District 5.

The Respondent argues that incorrect district identification is a fatal flaw for Nomination Papers because signatories are agreeing that the candidate named should appear on the ballot for the specific office listed on the form and that the signatories would be eligible to vote for that candidate if the candidate gains ballot access. The Respondent argues that by signing Nomination Papers identifying District 1 as the office sought, the signatories only agreed to nominate her to appear on the ballot for District 1 and not any other District. The respondent argues that she correctly denied the Complainant’s request to amend her submitted forms because the deadline to submit the forms passed and because the error could not be corrected by an amendment. The Respondent further states that she followed the guidance of the Wisconsin Elections Commission when making her decision to reject the Complainant’s submitted forms based on the Complainant’s listing of District 1 instead of District 5.

In a footnote, the Respondent states that most of the signatures on the Complainant’s Nomination Papers are from residents of District 6. Though the Respondent did not decide this matter on this additional basis, she states that it would have been an additional and sufficient basis for rejection of the nomination papers.

Commission Authority and Role in Resolving Complaints Filed Under Wis. Stat. § 5.06

Under Wis. Stat. §§ 5.05(1)(e) and 5.06(6), the Commission is provided with the inherent, general, and specific authority to consider the submissions of the parties to a complaint and to issue findings. In instances where no material facts appear to be in dispute, the Commission may summarily issue a decision and provide that decision to the affected parties. This letter serves as the Commission’s final decision regarding the issues raised by Ms. Juza’s complaint.

The Commission’s role in resolving verified complaints filed under Wis. Stat. § 5.06, which challenge the decisions or actions of local election officials, is to determine whether a local official acted contrary to applicable election laws or abused their discretion in administering applicable election laws.

Commission Findings

The Commission will detail the statutes and rules applicable to this Complaint. Wis. Stat. § 8.07 provides that: “[t]he commission shall promulgate rules under this chapter for use by election officials in determining the validity of nomination papers and signatures thereon.” Under Wis. Stat. § 8.07, the Commission has promulgated EL § 2.05, which states, in relevant part, that:

- (1) Each candidate for public office has the responsibility to assure that his or her nomination papers are prepared, circulated, signed, and filed in compliance with statutory and other legal requirements.
- (2) In order to be timely filed, all nomination papers shall be in the physical possession of the filing officer by the statutory deadline. . . .
- (3) The filing officer shall review all nomination papers filed with it, up to the maximum number permitted, to determine the facial sufficiency of the papers filed. Where circumstances and the time for review permit, the filing officer may consult maps, directories and other extrinsic evidence to ascertain the correctness and sufficiency of information on a nomination paper.
- (4) Any information which appears on a nomination paper is entitled to a presumption of validity. Notwithstanding any other provision of this chapter, errors in information contained in a nomination paper, committed by either a signer or a circulator, may be corrected by an affidavit of the circulator, an affidavit of the candidate, or an affidavit of a person who signed the nomination paper. The person giving the correcting affidavit shall have personal knowledge of the correct information and the correcting affidavit shall be filed with the filing officer not later than three calendar days after the applicable statutory due date for the nomination papers.
- (5) Where any required item of information on a nomination paper is incomplete, the filing officer shall accept the information as complete if there has been substantial compliance with the law.
- (6) Nomination papers shall contain at least the minimum required number of signatures from the circuit, county, district or jurisdiction which the candidate seeks to represent.

Wisconsin Statute § 8.10(2)(a) states that “[n]omination papers for offices to be filled at the spring election may be circulated no sooner than December 1 preceding the election and may be filed no later than 5 p.m. on the first Tuesday in January preceding the election” Wis. Stat. § 8.10(4)(a) states that “[a]ll signers on each nomination paper shall reside in the jurisdiction or district which the candidate named on the paper will represent, if elected.” Wis. Stat. § 8.21 states, in relevant part, that:

- (1) A candidate shall file the declaration [of candidacy] with the officer or agency with which nomination papers are filed for the office that the candidate seeks
- (2) The declaration of candidacy shall be sworn to before any officer authorized to administer oaths. The declaration shall contain the name of the candidate in the form specified under s. 8.10 (2) (b) for candidates for nonpartisan office . . . and shall state all of the following:
 - (a) That the signer is a candidate for a named office.
 - (b) That the signer meets, or will at the time he or she assumes office meet, applicable age, citizenship, residency, or voting qualification requirements, if any, prescribed by the constitutions and laws of the United States and of this state.

- (c) That the signer will otherwise qualify for office if nominated and elected. . . .
- (6) A candidate for state or local office shall file an amended declaration of candidacy under oath with the same officer or agency if any information contained in the declaration of candidacy changes at any time after the original declaration of candidacy is filed and before the candidate assumes office or is defeated for election or nomination.

Finally, Wis. Stat. § 8.30(1) states, in relevant part, that:

- Except as otherwise provided in this section, the official or agency with whom declarations of candidacy are required to be filed may refuse to place the candidate's name on the ballot if any of the following apply:
- (a) The nomination papers are not prepared, signed, and executed as required under this chapter.
 - (b) It conclusively appears, either on the face of the nomination papers offered for filing, or by admission of the candidate or otherwise, that the candidate is ineligible to be nominated or elected.

There are not any contested facts for the Commission to consider in this Complaint. The Complainant admits that she made an error when she listed District 1 on her forms instead of District 5, and the Respondent admits that she denied ballot access and denied the opportunity to amend the submitted forms. The Commission will examine two questions: 1. Did the Respondent err when she rejected the Complainant's Declaration of Candidacy and Nomination Paper forms, thereby denying ballot access; and 2. Did the Respondent err when she refused to allow the Complainant to amend or correct the submitted forms.

First, the Complainant submitted a Declaration of Candidacy form to the Respondent stating that she sought to gain ballot access for the office of "Green Bay City Counsel [sic] District 1." Wis. Stat. § 8.21(1) states that "[a] candidate shall file the declaration [of candidacy] with the officer or agency with which nomination papers are filed for the office that the candidate seeks" Wis. Stat. 8.21(2) adds that the form must state that "the signer is a candidate for a named office" and meets the residency requirements. Since there is no argument or information before the Commission that the Complainant met or could meet the residency requirements for the named office on the Declaration of Candidacy form, the Commission finds that the Respondent did not err in rejecting this form. See also, Wis. Stat. § 62.09(2)(a) ("No person shall be elected by the people to a city office who is not at the time of election a citizen of the United States and of this state, and an elector of the city, and in case of an aldermanic district office, of the aldermanic district, and actually residing therein.").

The Complainant submitted three Nomination Paper forms to the Respondent stating that she sought to gain ballot access for "District 1" of the Green Bay Common Council. Under Wis. Stat. § 8.30(1), as applicable to this complaint, a filing officer may refuse to grant ballot access if "[t]he nomination papers are not prepared, signed, and executed as required under this chapter" or "[i]t conclusively appears, either on the face of the nomination papers offered for filing, or by admission of the candidate or otherwise, that the candidate is ineligible to be nominated or elected." It is uncontested that the Complainant is ineligible to run in District 1. Further, Wis. Stat. § 8.10(4)(a) states that "[a]ll signers on each nomination paper shall reside in the

jurisdiction or district which the candidate named on the paper will represent, if elected,” and EL § 2.05(6) states that “[n]omination papers shall contain at least the minimum required number of signatures from the circuit, county, district or jurisdiction which the candidate seeks to represent.” There is no argument before the Commission that the Complainant or any of the signatories reside in District 1. For these reasons, the Commission finds that the Respondent did not err when she reviewed, as mandated by EL § 2.05(3), and rejected the Complainant’s Nomination Papers.

Before proceeding to the second question, the Commission will consider whether the Respondent should have considered the Complainant’s forms as substantially compliant with a submission for ballot access to District 5 under EL § 2.05(5), which states that “[w]here any required item of information on a nomination paper is incomplete, the filing officer shall accept the information as complete if there has been substantial compliance with the law.” The Commission finds that the respondent was correct not to invoke this rule. The forms were complete, and the information provided showed an attempt to gain ballot access to District 1 for a candidate who did not live in District 1.

Second, after learning that the Respondent denied ballot access to the Complainant for District 1, the Complainant asked, at 8:59 p.m. on Jan. 4, if she could amend her submitted forms to state District 5 instead of District 1. The Respondent replied that the filing deadline, set by Wis. Stat. 8.10(2)(a) at “5 p.m. on the first Tuesday in January preceding the election,” had passed and that the Complainant could not file an amendment. There is no disagreement that the filing deadline had passed, so the only question before the Commission is whether the Respondent erred by refusing the Complainant the opportunity to amend or correct the forms.

Regarding the Declaration of Candidacy form, Wis. Stat. 8.21(6) states that:

A candidate for state or local office shall file an amended declaration of candidacy under oath with the same officer or agency if any information contained in the declaration of candidacy changes at any time after the original declaration of candidacy is filed and before the candidate assumes office or is defeated for election or nomination.

There is no argument before the Commission that any information contained in the Declaration of Candidacy changed after it was filed. Had the sole error in this complaint been the substitution of District 1 for District 5 on the Declaration of Candidacy form, it is conceivable that the Complainant could have amended this form after the deadline. In such a case, a filing officer could consider whether the Declaration of Candidacy form was in substantial compliance with the law. However, in this case, all submitted forms listed District 1 and not District 5, and thus an amendment to the Declaration of Candidacy form alone would not have been sufficient to gain ballot access. For this reason, though the Commission finds that in some cases a filing officer could allow such an amendment or find substantial compliance with the law, the Respondent did not err in denying the Complainant the opportunity to amend her Declaration of Candidacy form because such an amendment would not have changed the outcome.

Regarding the Nomination Papers, EL § 2.05(4) states, in relevant part, that:

errors in information contained in a nomination paper, committed by either a signer or a circulator, may be corrected by an affidavit of the

circulator, an affidavit of the candidate, or an affidavit of a person who signed the nomination paper. The person giving the correcting affidavit shall have personal knowledge of the correct information and the correcting affidavit shall be filed with the filing officer not later than three calendar days after the applicable statutory due date for the nomination papers.

The Complainant in this case is both the candidate and the circulator. The Commission finds that the error here does not qualify as an “error in information” as contemplated by the rule. The error here is one of substance because each signatory requested that the candidate “be placed on the ballot at the election described above.” Further, each signatory agreed with the statement that “I am eligible to vote in the jurisdiction or district in which the candidate named above seeks office.” Though the Commission does not believe that the errors of the Complainant and the signatories were anything but honest mistakes involving boundary lines, the fact remains that each party signed this form stating that the election described and the office sought was “GB City Counsel [sic] District 1.” Correcting the forms after they were submitted to show what the Complainant intended to do could not have altered the information that the signatories had available at the time and to which they formally agreed. Candidate information contained in the header, including the district in which the candidate is seeking office, is not information that can be changed or amended after the Nomination Papers have been circulated. The Candidate had no available option to correct this particular error short of circulating new forms and gathering new signatures, which could not be done after the deadline described in Wis. Stat. § 8.10(2)(a) and referenced by EL § 2.05(2). Thus, the Respondent did not err when she denied the Complainant the opportunity to amend the Nomination Papers.

Though the situation described in the Complaint is unfortunate, the Commission finds the Respondent did not err in her decisions to deny ballot access and to deny any amendments or corrections to the Complainant’s submitted forms. Additionally, though it is not before the Commission for review, it appears that a critical number of signatories were neither residents of District 1 nor District 5, meaning that had the Respondent not denied ballot access due to the issues discussed above, she should have denied ballot access due to the signatories residing in District 6. Of note, a candidate is also unable to correct information provided by a signer if the signer does not reside in the district in which the candidates seeks office. Therefore, even if this issue had been noted during the initial facial review, there was no remedy for the Complainant to correct signatures of residents who did not reside in District 5 – where she was attempting to gain access to the ballot.

Commission Decision

Based upon the above review and analysis, the Commission finds no probable cause to believe that a violation of law or abuse of discretion has occurred with regards to Wis. Stats. §§ 8.07, 8.10, 8.21, and 8.30 or Wis. Admin. Code § EL 2.05.

Right to Appeal – Circuit Court

This letter constitutes the Commission’s resolution of this complaint. Wis. Stat. § 5.06(2). Pursuant to Wis. Stat. § 5.06(8), any aggrieved party may appeal this decision to circuit court no later than 30 days after the issuance of this decision.

If any of the parties should have questions about this letter or the Commission's decision, please feel free to contact me.

Sincerely,

COMMISSION

A handwritten signature in black ink that reads "Megan L.M. Wolfe". The signature is written in a cursive style with a large, looped initial "M".

Meagan Wolfe
Administrator

cc: Commission Members